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EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
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3692

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/615,582	DARRELL, RICHARD A.	
	Examiner	Art Unit	
	Narayanswamy Subramanian	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 June 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5,7,9,11-15,17,18,21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5, 7, 9, 11-15, 17, 18, 21 and 23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

1. This office action is in response to applicants' communication filed on June 20, 2007. Amendments to claims 1 and 21 have been entered. Claims 1-5, 7, 9, 11-15, 17, 18, 21 and 23 are currently pending in the application and have been examined. The rejections and response to arguments are stated below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5, 7, 9, 21 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 21 recite the limitation "information that defines at least one user-defined category". It is not clear what the applicant means by this limitation. If a category is already user-defined, then what is the information defining? Further it is not clear what the applicant means by the term "user-defined". Is the user the same as the consumer or is he/she some other party? These claims also recite the limitation "the items sorted into categories". There is no antecedent basis for this limitation in the claim because the step of sorting items into categories has not been positively recited before. The limitation "to sort the items into categories comprising the at least one user-defined category" is interpreted as an intended use of the using step. Appropriate correction/clarification is required. Claims 2-5, 7, 9 and 23 are rejected by way of dependency on a rejected independent claim.

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Claims 11-15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: It is not clear how the various elements of the system are related structurally to one another. For instance how is the host computer system related to the product information database? Is there a network that is used for communication between the host computer and the consumer computer? How is the consumer computer related to the product information database? Appropriate correction/clarification is required.

The art rejections are interpreted in light of the rejections made above.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-5, 7, 9, 11-15, 17, 18, 21 and 23 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory Subject matter.

35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof" (emphasis added).

Claims 1-5, 7, 9, 11-15, 17, 18, 21 and 23 are drawn to "methods and systems of presenting an image of a receipt to a consumer, the method comprising: electronically capturing a receipt; storing the receipt; receiving a request to display the image of the receipt; transmitting an electronic file comprising the image of the receipt for display at the consumer computer, the electronic file further comprising programming that causes at least one purchase item included

on the receipt to appear as a selectable link to obtain more detailed information about item; receiving from the consumer computer information that defines at least one user-defined category based on product information; receiving a request at the host computer from the consumer computer to display a categorical listing of items purchased by the consumer, wherein the items are comprised by a plurality of receipts; for each of the plurality of receipts, consulting a database for product information relating to each item of the receipt; using the product information to sort the items into categories comprising the at least one user-defined category; and transmitting a second electronic file from the host computer system to the consumer computer, wherein the file comprises a listing of the items sorted into categories comprising the at least one user-defined category based on product information for display at the consumer computer". As such the claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception because the claims do not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result.

The Court of Appeals for the Federal Circuit issued opinions in State Street Bank & Trust Co. v. Signature Financial Group Inc., 149 F. 3d 1368, 47 USPQ2d 1596 (Fed. Cir. 1998) and AT&T Corp. v. Excel Communications, Inc., 172 F.3d 1352, 50 USPQ2d 1447 (Fed. Cir. 1999). These decisions explained that, to be eligible for patent protection, the claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601 02. To satisfy section 101 requirements, the claim must be for a practical application of the § 101 judicial exception, which

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can be identified in various ways: (a) The claimed invention “transforms” an article or physical object to a different state or thing. (b) The claimed invention otherwise produces a useful, concrete and tangible result, based on the factors discussed below.

The USPTO’s official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. See MPEP § 2107. The claimed invention does not seem to meet this requirement.

The tangible requirement does require that the claim must recite more than a § 101 judicial exception, in that the process claim must set forth a practical application of that § 101 judicial exception to produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77. Transmitting a second electronic file from the host computer system to the consumer computer, wherein the file comprises a listing of the items sorted into categories comprising the at least one user-defined category based on product information for display at the consumer computer does not produce a real-world result.

For an invention to produce a “concrete” result, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. In re Swartz, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is “irreproducible” claim should be rejected under section 101). The opposite of “concrete” is unrepeatable or unpredictable.

There is no useful, concrete and tangible result produced from implementing the steps of the claimed invention. The dependent claims are rejected for the same reason and by way of dependency on a rejected independent claim.

The claims 1-5, 7, 9, 21 and 23 recite a non-statutory process.

The instant claims recite mathematical algorithm which involves a method of presenting an image of a receipt to a consumer, comprising: electronically capturing a receipt; storing the receipt; receiving a request to display the image of the receipt; transmitting an electronic file comprising the image of the receipt for display at the consumer computer, the electronic file further comprising programming that causes at least one purchase item included on the receipt to appear as a selectable link to obtain more detailed information about item; receiving from the consumer computer information that defines at least one user-defined category based on product information; receiving a request at the host computer from the consumer computer to display a categorical listing of items purchased by the consumer, wherein the items are comprised by a plurality of receipts; for each of the plurality of receipts, consulting a database for product information relating to each item of the receipt; using the product information to sort the items into categories comprising the at least one user-defined category; and transmitting a second electronic file from the host computer system to the consumer computer, wherein the file comprises a listing of the items sorted into categories comprising the at least one user-defined category based on product information for display at the consumer computer (as recited in claims 1-5, 7, 9, 21 and 23). A mathematical algorithm is defined as a "procedure for solving a given type of mathematical problem." *Gottschalk v. Benson*, 409 U.S. 63, 65, 175 USPQ 673, 674 (1972); *Flook*, 437 U.S. at 585 n.1. 198 USPQ at 195 n.1: *Diehr*, 450 U.S. at 186, 209 USPQ at

8. Mathematical algorithms are non- statutory because they have been determined not to fall within the § 101 statutory class of a "process." *Benson*. "[A]n algorithm, or mathematical formula, is like a law of nature, which cannot be the subject of a patent." *Diehr*,

450 U.S. at 186, 209 USPQ at 8. The exception applies only to mathematical algorithms since any process is an "algorithm" in the sense that it is a step-by-step procedure to arrive at a given result. *In re Walter*, 618 F.2d 758, 764 n.4, 205 USPQ 397, 405 n.4, (CCPA 1980); *Pardo*, 684 F.2d at 915, 214 USPQ at 676.

A mathematical algorithm is not made statutory by "attempting to limit the use of the formula to a particular technological environment." *Diehr*, 450 U.S. at 191, 209 USPQ at 10. Thus, "field of use" or "end use" limitations in the claim preamble are insufficient to constitute a statutory process. This is consistent with the usual treatment of preambles as merely setting forth the environment. See *Flook* (the preamble while limiting the application of the claimed method to "a process comprising the catalytic chemical conversion of hydrocarbons" did not serve to render the method statutory); *Walter*, 618 F.2d at 769, 205 USPQ at 409 ("Although the claim preambles relate the claimed invention to the art of seismic prospecting, the claims themselves are not drawn to methods of or apparatus for seismic prospecting"); *de Castelet*, 562 F.2d at 1244 n.6, 195 USPQ at 446 n.6 ("The potential for misconstruction of preamble language requires that compelling reason exist before that language may be given weight"). Compare *Waldbaum*, 559 F.2d at 616 n.6, 194 USPQ 469 n.6 (portion of preambles referred to in method portion of claims "are necessary for completeness of the claims and are proper limitations thereto").

Data-gathering steps

If the only limitations in the claims in addition to the mathematical algorithm are data-gathering steps which "merely determine values for the variables used in the mathematical formulae used in making the calculations." Such antecedent steps are insufficient to change a

nonstatutory method of calculation into a statutory process. See *In re Richman*, 563 F.2d at 1030. 195 USPQ at 343; *Sarkar*, 588 F.2d at 1335. 200 USPQ at 139 ("If the steps of gathering and substituting values were alone sufficient, every mathematical equation, formula, or algorithm having any practical use would be per se subject to patenting as a 'process' under §101"): *Gelnovatch*, 595 F.2d at 41 n.7. 201 USPQ at 145 n.7 ("claimed step of perturbing the values of a set of process inputs (step 3), in addition to being a mathematical operation, appears to be a data-gathering step").

The claimed inventions recite data gathering step (electronically capturing a receipt; storing the receipt; receiving a request; transmitting an electronic file; receiving information that defines a user-defined category; receiving a request to display a categorical listing of items; consulting a database for product information relating to each item of the receipt; using the product information to sort the items into categories comprising the at least one user-defined category; and transmitting a second electronic file wherein the file comprises a listing of the items sorted into categories comprising the at least one user-defined category based on product information). When viewed in light of the specification, this step constitutes data gathering. As per the court rulings cited above, the claims constitute mathematical algorithm(s) applied to data gathered in the respective process steps. The fact that a mathematical algorithm is applied to solve a problem of concealing information does not make the claim statutory. *Walter*, 618 F.2d at 764-65 n.4, 205 USPQ at 405 n.4. "The type of mathematical computation involved does not determine whether a procedure is statutory or nonstatutory." *In re Gelnovatch*, 595 F.2d 32, 41.201 USPQ 136, 145 (CCPA 1979). A "claim for an improved method of calculation, even when tied to a specific end use, is unpatentable subject matter under §101." *Flook*, 437 U.S. at

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595 n.18, 198 USPQ at 199 n.18. Mathematical algorithms may represent scientific principles, laws of nature, or ideas or mental processes for solving complex problems. See *Meyer*, 688 F.2d at 794-95, 215 USPQ at 197.

The apparatus claims (claims 11-15, 17, 18) are analyzed based upon the underlying process. In the instant case this claim recites process of the respective method claims. Since the underlying process is not statutory, an apparatus for performing the underlying process does become statutory. Labels are not determinative § 101 inquiries. "Benson applies equally whether an invention is claimed as an apparatus or process, because the form of the claim is often an exercise in drafting." *In re Johnson*, 589 F.2d 1070, 1077, 200 USPQ 199, 206 ([CCPA] 1978). "Though a claim expressed in 'means for (functional) terms [under 35 U.S.C. § 112, sixth paragraph] is said to be an apparatus claim, the subject matter as a whole of that claim may be indistinguishable from that of a method claim drawn to the steps performed by the 'means,'" *In re Freeman*, 573 F.2d at 1247, 197 USPQ at 472. Moreover, that the claimed computing system may be a "machine" within "the ordinary sense of the word," as appellant argues, is irrelevant. The holding in Benson "forecloses a purely literal reading of § 101." Dependent claims are rejected for the same reason and by way of dependency on a rejected independent claim.

Also claim 18 of the disclosed invention is inoperative and therefore lacks utility.

Claim 18 merely recite elements of an apparatus or a system ("means for" corresponds to software program elements and not tangible hardware components) without showing any ability to realize functionality of the recited elements (i.e. functional descriptive material per se) and therefore is rendered inoperative lacking any utility.

Note that a computer (or software program) code cannot by itself perform the underlying function until it is loaded on some computer readable memory and accessed by the computer (or a processor).

Functional descriptive material, per se, is not statutory. This is exemplified in *In re Warmerdam* 31 USPQ2d 1754 where the rejection of a claim to a disembodied data structure was affirmed. Thus a claim to a data structure, per se, or other functional descriptive material, including computer programs, per se, is not patent eligible subject matter.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 7, 9, 11-15 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houvener et al (US Patent 6,397,194 B1) in view of Schultz et al (US Pub. No. 2001/0029470 A1).

Claims 1 and 11, Houvener discloses a method and system of presenting an image of a receipt to a consumer, the method comprising: electronically capturing a receipt (See Houvener Column 1 lines 15-25); storing the receipt at a host computer system (See Houvener 1 Column lines 15-25 and Column 5 lines 37-41); receiving a request at the host computer system from a computer of the consumer to display the image of the receipt (See Houvener Column 10 lines 48-52, the user is interpreted to include the consumer); and transmitting an electronic file

comprising the image of the receipt for display at the consumer computer (See Houvener Column 10 lines 58-62, the display device is interpreted to include display at the consumer computer). The host system, interface, a user computer are inherent in the disclosure of Houvener.

Houvener fails to teach the steps wherein the electronic file further comprises programming that causes at least one purchase item included on the receipt to appear as a selectable link to obtain more detailed information about item; receiving from the consumer computer information that defines at least one user-defined category based on product information; receiving a request at the host computer from the consumer computer to display a categorical listing of items purchased by the consumer, wherein the items are comprised by a plurality of receipts; for each of the plurality of receipts, consulting a database for product information relating to each item of the receipt; using the product information to sort the items into categories comprising the at least one user-defined category; and transmitting a second electronic file from the host computer system to the consumer computer, wherein the file comprises a listing of the items sorted into categories comprising the at least one user-defined category based on product information for display at the consumer computer.

Schultz teaches the steps of receiving information from the consumer computer (See Schultz Paragraphs 37, 40, 58, 67, the limitation “information that defines at least one user-defined category based on product information” is not a positive recitation of the defining step and hence is not given patentable weight. The information that defines at least one user-defined category is interpreted as an intended use of the receiving step); wherein the electronic file further comprises programming that causes at least one purchase item included on the receipt to

appear as a selectable link to obtain more detailed information about item (See Schultz Figures 1 and 9 and Paragraphs 28, 29, 35, 52-59); receiving a request at the host computer from the consumer computer to display a categorical listing of items purchased by the consumer, wherein the items are comprised by a plurality of receipts; for each of the plurality of receipts, consulting a database for product information relating to each item of the receipt; using the product information; and transmitting a second electronic file from the host computer system to the consumer computer, wherein the file comprises a listing of the items sorted into categories that include the at least one category based on product information for display at the consumer computer (See Schultz Figures 1 and 11 and Paragraphs 28, 29, 35, 37, 40, 52-59, 62, 65-67). The receipt organizer service sorts the receipts by categories selected (See Paragraphs 62 and 65). The limitation “to sort the items into categories comprising the at least one user-defined category” is interpreted as an intended use of the step of using the product information and hence not given patentable weight. The limitation “information that defines at least one user-defined category based on product information” is not a positive recitation of the defining step. This limitation describes the information received from the consumer computer and not the step of receiving the information. The step of receiving information from the consumer computer is performed regardless of whether the information defines or does not define at least one user-defined category. The limitation is interpreted as non-functional descriptive material because it does not further limit the step of receiving information from the consumer computer. Hence the limitation “the information that defines at least one user-defined category based on product information” is not given patentable weight.

Both Houvener and Schultz are concerned with the problem of providing a user with user-friendly means for storing and retrieving receipts. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Houvener to include teachings of Schultz. The combination of the teaching taken as a whole suggests that users would have benefited from being able to store the transaction receipts electronically and gather information from stored receipts (See Schultz Paragraph 9).

Claim 18, Houvener discloses a system of presenting an image of a receipt to a consumer comprising: means for receiving an electronic image of a receipt (See Houvener Column 1 lines 15-25); means for storing the image (See Houvener 1 Column lines 15-25 and Column 5 lines 37-41); means for receiving a request from a computer relating to the consumer to display the image (See Houvener Column 10 lines 48-52, the user is interpreted to include the consumer); means for transmitting the image to the consumer computer (See Houvener Column 10 lines 58-62).

Houvener fails to teach the means for obtaining product information relating to an item on the receipt and means for categorizing a plurality of items on a receipt into user-definable categories according to the product information.

Schultz teaches the means for obtaining product information relating to an item on the receipt (See Schultz Figures 1 and 9 and Paragraphs 28, 29, 35, 52-59).

Both Houvener and Schultz are concerned with the problem of providing a user with user-friendly means for storing and retrieving receipts. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Houvener to include teachings of Schultz. The combination of the teaching taken as a whole suggests that users would

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have benefited from being able to store the transaction receipts electronically and gather information from stored receipts (See Schultz Paragraph 9).

Houvener fails to teach the means for categorizing a plurality of items on a receipt into user-definable categories according to the product information.

Official notice is taken that means for categorizing a plurality of items on a receipt into user-definable categories according to the product information is old and well known in the art. This helps the user to customize the view of the receipt according to user preferences.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Houvener to include this feature. The combination of the teaching taken as a whole suggests that users would have benefited from being able to customize the view of the receipt according to user preferences.

Claims 2 and 12, Houvener teaches the step wherein the receipt comprises a credit card receipt (See Houvener Column 2 lines 16-25).

Claim 3, Houvener teaches the step wherein the receipt comprises an image of the consumer's signature (See Houvener Column 1 lines 15-25).

Claim 4, Houvener teaches the step wherein the receipt is printed on paper at a point of sale and electronically capturing comprises scanning an image of the receipt to an electronic file (See Houvener Column 2 lines 23-27 and Column 1 lines 19-25).

Claims 5 and 13, Houvener teaches the step wherein electronically capturing comprises receiving a file from a point-of-sale device, wherein the file comprises an image of the consumer's signature (See Houvener Column 3 lines 24-48).

Claim 7, Schultz teaches the steps of receiving a selection of the purchase item from the consumer; consulting a database for information about the item; and transmitting a file comprising the information to the consumer (See Schultz Figures 1 and 9 and Paragraphs 28, 29, 35, 52-59, 67).

Claim 9, Schultz teaches the step wherein the second electronic file comprises programming that causes at least one item to appear as a selectable link to more detailed information about the item (See Schultz Paragraphs 52-59 and 67).

Claim 14, Houvener teaches the step wherein the image capture device is further configured to convert image information captured from a receipt into data (See Houvener Column 1 lines 15-25 and Column 3 lines 24-3\$, whereby the data may appear in an electronic image of the receipt as a selectable link relating to the data (See Schultz Figures 1 and 9 and Paragraphs 28, 29, 35, 52-59).

Claim 15, Houvener teaches the step wherein the interface is configured to provide communication between the host computer system and at least one point-of-sale device (See Houvener Column 5 lines 42-45).

Claim 17, Schultz teaches the step wherein the identifier is selected from the group consisting of UPC and SKU (See Schultz Paragraph 67).

8. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz et al (US Pub. No. 2001/0029470 A1).

Claim 21, Schultz teaches a method of presenting receipt information to a consumer, comprising: receiving from a consumer computer information (See Schultz Paragraphs 37, 40,

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58, 67, the limitation “information that defines at least one user-defined category” is an intended use language recitation of the defining step and hence is not given patentable weight); receiving a request at the host computer from a computer of the consumer to display a categorical listing of items purchased by the consumer, wherein the items are comprised by a plurality of receipts; for each of the plurality of receipts, consulting a database for information relating to each item of the receipt; using the information; and transmitting an electronic file from the host computer system to the consumer computer, the electronic file comprising a list of the items sorted into at least one user-defined category for display at the consumer computer (See Schultz Figures 1 and 11 and Paragraphs 28, 29, 35, 37, 40, 52-59, 62, 65-67, the categories have been defined by a user). The receipt organizer service sorts the receipts by categories selected (See Paragraphs 62 and 65). The limitation “to sort the items into categories comprising the at least one user-defined category” is interpreted as an intended use of the step of using the product information and hence not given patentable weight. Schultz does not explicitly teach the step of “information that defines at least one user-defined category”. However the limitation “information that defines at least one user-defined category” is not a positive recitation of the defining step. This limitation describes the information and not the step of receiving the information. The step of receiving information from the consumer computer is performed regardless of whether the information defines or does not define at least one category. The limitation is interpreted as non-functional descriptive material because it does not further limit the step of receiving information from the consumer computer. Hence the limitation “the consumer computer that defines at least one category based on product information” is not given patentable weight.

Claim 23, Schultz teaches the step wherein the electronic file comprises programming that causes at least one item to appear as a selectable link to more detailed information about the item (See Schultz Paragraphs 52-59 and 67).

Response to Arguments

9. Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

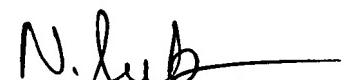
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are listed in the enclosed form PTO-892.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached at (571) 272-6783. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Dr. N. Subramanian

Primary Examiner

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June 21, 2007